

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE:

Case No. 22-48074

ADJ PROPERTIES, LLC, et al.,¹

Chapter 11
(Jointly Administered)
Judge Thomas J. Tucker

Debtors.

ORDER REQUIRING DEBTORS TO AMEND DISCLOSURE STATEMENT

On May 31, 2023, the Debtors in these jointly administered cases filed a plan and disclosure statement, in a document entitled “First Amended Combined Liquidating Plan and Disclosure Statement of ADJ Properties, LLC and ALJ Properties, LLC” (Docket # 85). The Court cannot yet grant preliminary approval of the disclosure statement contained within this document (“Disclosure Statement”). The Court notes the following problems, which the Debtors must correct.

1. The Debtors have not corrected the problem described in paragraph 1 of the Court’s May 24, 2023 Order (Docket # 82). In paragraphs 2.3, 2.4, and 2.5 on pages 35-36 of the Plan, and in paragraph I.A of the Disclosure Statement on pages 4-5 in the sections entitled Group III, Group IV, and Group V, and possibly elsewhere, the Debtors refer to and treat the pre-petition secured real estate tax claims of the Macomb County Treasurer and the City of Fraser in Groups, as if they are priority claims, rather than in classes with a right to vote on the plan.² That is incorrect. The Debtors do not state that these tax claims qualify for priority under 11 U.S.C.

¹ The Debtors in these jointly administered cases are ADJ Properties, LLC (Case No. 22-48074) and ALJ Properties, LLC (Case No. 22-48075).

² Because under the Plan the payment of these secured claims must await the closing of a sale of real estate, on some future unspecified date, these claims are impaired under 11 U.S.C. § 1124, and therefore have a right to vote on the plan.

§ 507(a)(8)(B) (applicable to certain property taxes that are “*unsecured* claims of governmental units”), or any other subsection of Bankruptcy Code § 507(a). And in any event, 11 U.S.C. § 1123(a)(1) requires classification of all priority claims except those of a kind specified in 11 U.S.C. §§ 507(a)(2), 507(a)(3), or 507(a)(8). These pre-petition, *secured* tax claims must be classified in the Plan. The Debtors must treat each secured creditor, including each creditor holding a secured tax claim, in a separate class. With regard to each secured creditor, the Debtors must state the amount of the claim without regard to the value of the collateral; describe the property securing the claim (if real estate, the full address, including city and state); state the fair market value of the property securing the claim; state whether any portion of the claim is unsecured; and if so, whether the secured creditor will have an unsecured deficiency claim, to be included and treated in the class of general unsecured claims; and if so, the amount of such unsecured claim. If more than one secured creditor has a lien on property, the Debtors must state the priority of each secured creditor (*e.g.*, which creditor has a first priority lien and which creditor has a second priority lien). The Debtors also must amend the Disclosure Statement so that it is consistent with the changes the Debtors make to the Plan under this paragraph.

2. The Debtors must correct the typographical error in paragraph IV.D.2 of the Disclosure Statement on page 18, where the number “\$1,1140,000.00” appears.

3. In the last sentence of paragraph VI of the Disclosure Statement on page 26, the Debtors must change “Part IV.E.2(b)” to “Part VI.E.2.(b).”

Accordingly,

IT IS ORDERED that no later than **June 8, 2023**, the Debtors must file an amended combined plan and disclosure statement that is consistent with this Order.

IT IS FURTHER ORDERED that no later than **June 8, 2023**, the Debtors also must file a redlined version of the amended combined plan and disclosure statement, showing the changes the Debtors have made to the “First Amended Combined Liquidating Plan and Disclosure Statement of ADJ Properties, LLC and ALJ Properties, LLC,” filed May 31, 2023.

Signed on June 1, 2023



/s/ Thomas J. Tucker

Thomas J. Tucker
United States Bankruptcy Judge